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**From:** Alexander.Helderman@dbr.com  
**Sent:** Friday, August 19, 2005 05:40:17 PM  
**To:** BAUGHMAJ@pepperlaw.com  
**CC:** Michael.McTigue@dbr.com, GALLIN@pepperlaw.com  
**Subject:** National Paintball Supply, Inc. v. Paintball L.P.  
**Attachments:** 8-19-Baughman.pdf (121 KB)

Please see the attached.

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Thank you very much.

NPS 1459



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August 19, 2005

**VIA ELECTRONIC MAIL**

Jon A. Baughman, Esquire  
**Pepper Hamilton LLP**  
3000 Two Logan Square  
18<sup>th</sup> & Arch Streets  
Philadelphia, PA 19103-2799

**Re: ProCaps L.P.**

Dear Jon:

As we have maintained, Procaps, L.P. ("PLP") has breached and wrongfully terminated the Agreement<sup>1</sup> between National Paintball Supply, Inc. ("NPS") and PLP.

Before PLP's improper termination, NPS was the exclusive worldwide distributor of DXS Paintballs and, pursuant to Section 7.01 of the Paint Distribution Agreement, held an exclusive, worldwide, royalty free license in the trademarks associated with DXS Paintballs.

NPS previously advised PLP, and this letter shall confirm once again, that it is NPS's intention – it is NPS's demand - to continue, as a matter of right, to purchase, distribute, and maintain its exclusive, worldwide interest in and to DXS Paintballs and all associated trademarks for a full twelve month period in accordance with Section 8.05 of the Paint Distribution Agreement.

PLP refuses to sell NPS DXS Paintballs and PLP has sold and continues to sell DXS Paintballs and to use the associated trademarks at variance to and in clear violation of Sections 7.01 and 8.05.

Please be advised that NPS, among other things, intends to recover losses for the twelve month period from the date of PLP's wrongful termination.

<sup>1</sup> Including that certain September 20, 2004, Distribution Agreement ("Paint Distribution Agreement") which incorporates by reference various provisions of that certain Wholesale Product Supply and Distribution Transfer Agreement executed on February 28, 2002 (the "DDUSA Agreement") and various provisions of that certain Amendment of Contract Terms executed May 2004 (the "DDEURO Amendment") and that certain X-Ball Rebate Agreement executed as of September 20, 2004 (the "X-Ball Agreement") (collectively the Paint Distribution Agreement, the surviving provisions of the DDUSA Agreement and the DDEURO Agreement and the X-Ball Agreement are referred to as the "Agreement") said Agreement being entered into by and between NPS and Procaps Encapsulation, Inc. as assigned to Paintball, L.P. ("PLP"). Terms defined under the Agreement shall have the same respective meanings when used hereunder.

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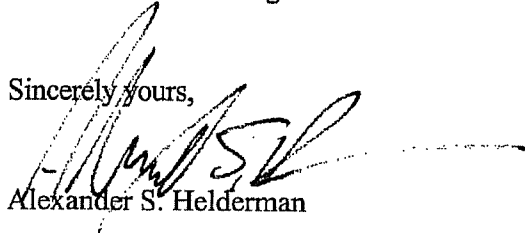
Jon Baughman  
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Accordingly, please ensure that all of PLP's records are maintained so that NPS can make the appropriate accounting, when necessary.

Further, because of PLP's breach and improper termination, NPS is now compelled to secure NPS Paintballs and Diablo Paintballs from third party manufacturers. Also, I understand that PLP is in possession of empty NPS Paintball and Diablo Paintball boxes. Accordingly, NPS proposes to purchase all NPS Paintball and Diablo Paintball boxes, FOB PLP, from PLP at PLP's cost on a COD basis. However, since NPS intends to redesign its boxes, if PLP does not wish to sell these boxes to NPS at this time, NPS may not entertain purchasing them at a later date and will instead be compelled to resort to other remedies with respect to PLP's disposal of the NPS Paintball and Diablo Paintball boxes. Of course, if NPS purchases the boxes, NPS would covenant, pursuant to writing, that all indicia that points to PLP as the manufacturer would be covered.

Please review this with your client and let me or Mr. McTigue know how you would like to proceed.

Sincerely yours,

  
Alexander S. Helderman

ASH/ksb